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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,756	08/30/2001	Paul Bernell Finley JR.	AUS9-2001-0342-US1	9989
7590	09/22/2004		EXAMINER	ZHOU, TING
Volel Emile International Business Machines Intellectual Property Law Department 11400 Burnet Road, Internal Zip 4054 Austin, TX 78758			ART UNIT	PAPER NUMBER
			2173	
			DATE MAILED: 09/22/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/942,756	FINLEY ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Ting Zhou	2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 August 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

**DETAILED ACTION**

***Drawings***

1. The drawings are objected to because the following reference characters are not labeled in an appropriate descriptive manner: reference characters “20”, “24” and “38” in Figure 1 and reference character “51” in Figure 2 should be labeled to clearly describe the element represented by each box.
  
2. Applicant is required to submit a proposed drawing correction of the above noted deficiencies in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

***Specification***

3. The abstract of the disclosure is objected to because the meaning of the limitation “scope said items” on line 11 of the abstract is unclear. It is suggested that the phrase be changed to -- scope of said items --. Correction is required. See MPEP § 608.01(b).

***Claim Objections***

4. Claims 1, 9 and 18 are objected to because of the following informalities: the meaning of the limitation “scope said items” on lines 8, 7 and 9 of claims 1, 9 and 18, respectively, is unclear. It is suggested that the phrase be changed to -- scope of said

items -- to provide a clearer recitation of the limitation. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-25 are rejected under 35 U.S.C. 102(b) as being anticipated by DeStefano U.S. Patent 6,075,531.

Referring to claims 1, 9 and 18, DeStefano teaches a system, method and computer program comprising user controlled means for moving an on-screen pointer to approach the selectable items (operation of the pointer in normal mode for conventional operation of a user controlled pointer in a GUI environment, such as moving the pointer towards a window on the display to select/move/resize the window) (column 5, lines 29-36 and column 6, line 67 through column 7, lines 1-2), means for providing a scope of display screen area adjacent the moving pointer within which scope of the items are enabled for user selection (providing a grip span that depends upon the proximity range, or scope of the pointer) (column 9, lines 14-54), and means for enabling a user to interactively modify the scope of the moving pointer (the scope, or proximity range/grip span of the pointer is customizable by a user) (column 9, lines 14-21 and 31-37).

Referring to claims 2, 10 and 19, DeStefano teaches the items are icons (items displayed on the screen of the GUI can be a plurality of items such as windows, icons, etc.) (column 4, lines 37-43).

Referring to claims 3, 11 and 20, DeStefano teaches the scope may be modified without changing the image of the pointer (the proximity range/grip span of the pointer, represented by the circle around the pointer in Figure 11 can be customized by the user, for example, the user can change the scaling factor that determines the radius of the proximity range, while the image of the pointer, i.e. the image of the hand in Figure 11 remains unchanged).

Referring to claims 4, 13 and 21, DeStefano teaches the scope may be modified by changing the geometric configuration of the scope (geometric shapes other than circles can be used to represent the proximity range/grip span) (column 9, lines 46-54 and Figure 16).

Referring to claims 5, 14 and 22, DeStefano teaches the scope may be modified by changing the size of the scope (changing the radius of the circle representing the proximity range/grip span of the pointer) (column 9, lines 31-37).

Referring to claims 6, 15 and 23, DeStefano teaches the scope may be modified by changing the position of the scope (the proximity range/grip span can also be variable depending on the position, or distance to the closest window, of the pointer) (column 9, lines 41-45).

Referring to claims 7, 16 and 24, DeStefano teaches the scope is circular (the proximity range/grip span is represented by a circle) (column 9, lines 14-37).

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Referring to claims 8, 17 and 25, DeStefano teaches the scope is rectilinear (the proximity range/grip span can be represented by any of a plurality of geometric shapes) (column 9, lines 46-54).

Referring to claim 12, DeStefano teaches displaying the scope of the moving pointer on the display screen prior to modification (the proximity range/grip span of the pointer in the move/resize mode can be displayed on the screen for user customization) (column 8, lines 15-21, column 9, lines 14-37 and Figure 11) and removing the scope from the display screen after modification (after the user has customized the proximity range/grip span of the pointer, the user can put the pointer in normal mode to remove the displayed proximity range) (column 6, line 67 through column 7, lines 1-2 and column 7, lines 32-38).

6. The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The documents cited therein teach similar methods of changing the scope of a pointer.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ting Zhou whose telephone number is (703) 305-0328 through the month of October, 2004 and (571) 272-4058 thereafter. The examiner can normally be reached on Monday - Friday 8:00 am - 5:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached at (703) 308-3116 through the month of October, 2004 and (571) 272-4048 thereafter. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-8720 through the month of October, 2004 and (571) 273-4058 thereafter.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

3 September 2004

CAO (KEVIN) NGUYEN  
PRIMARAY EXAMINER